

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6175

BILL NUMBER: SB 92

DATE PREPARED: Jan 25, 2002

BILL AMENDED: Jan 24, 2002

SUBJECT: Representation of Indigents in Civil Actions.

FISCAL ANALYST: Mark Goodpaster

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FUNDS AFFECTED: **GENERAL
DEDICATED
FEDERAL**

IMPACT: Local

Summary of Legislation: (Amended) This bill has the following provisions:

(A) It allows a court to appoint an attorney ad litem to represent a child if no other statute provides for the appointment of an attorney for the child. The appointment of an attorney ad litem may be in lieu of or in addition to the appointment of a guardian ad litem or court-appointed special advocate. The costs of an attorney ad litem shall be paid by the parent or guardian of the child's estate, or by the county.

(B) It repeals provisions dealing with the appointment of an attorney to represent an indigent in a civil action.

Effective Date: Upon passage.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) Provision A: Under current law, courts already have discretion to appoint guardian ad litem and court-appointed special advocates in all juvenile and family court issues. This provision would not pose any additional mandates on courts.

Provision B *will save* counties an indeterminable amount of money by no longer requiring the courts to appoint their public defender staff or hire outside counsel to represent indigent litigants in all civil cases. For example, some courts are reportedly using public defenders to represent indigent parties in divorce cases and certain noncriminal cases. Under this bill, courts would have the discretion to appoint an attorney in some occasions that the court considers to be appropriate.

The amount of money that courts are currently spending on legal services for indigent persons in civil cases is not reported.

Background: Under current law, courts are required to appoint legal counsel for any litigant in a civil proceeding who the court determines to be indigent. Under this bill, the courts would no longer be required to appoint indigent counsel for all civil cases involving indigent litigants. However, courts would remain obliged to appoint counsel for indigent persons in the following civil proceedings:

Code Cite	Type of Proceeding
IC 11-13-6-9	Parole Hearing.
IC 12-10-3-22	Hearing to determine whether a person is an endangered adult that is required to receive protective services.
IC 12-20-15-6	Appeal from denial or reduction of poor relief.
IC 12-26-2-5	Discretionary authority to appoint counsel for petitioner in action for detention or commitment of mentally ill person.
IC 16-39-3-5	Required appointment of counsel for release of mental health records of indigent person in an inpatient treatment facility.
IC 16-41-9-2	Proceedings to impose restrictions on individuals with certain communicable or dangerous communicable diseases or require mandatory testing.
IC 31-15-6-6	Discretionary authority to appoint lawyer for guardian ad litem or court-appointed special advocate in dissolution and legal separation actions.
IC 31-17-6-5	Discretionary authority to appoint lawyer for guardian ad litem or court-appointed special advocate actions: (1) for child custody and modification of child custody orders; (2) related to visitation rights of noncustodial parent; (3) for appointment of a guardian ad litem or court-appointed special advocate; or (4) to determine fees and costs of a party.
IC 31-32-3-4; IC 31-32-3-5	Discretionary authority to appoint lawyer for guardian ad litem or court-appointed special advocate in actions in any juvenile proceeding.
IC 31-32-2-5; IC 31-32-4-1; IC 31-32-4-3	Required appointment of attorney for parent in a proceeding to terminate the parent-child relationship.
IC 31-37-23-1	Discretionary authority to appoint lawyer for a runaway detained under a requisition order issued under authority of Interstate Compact on Juveniles.
IC 34-57-3-4	Community dispute resolution centers program required to provide services to indigent.

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected: Trial Courts.

Information Sources: Larry Landis, Indiana Public Defender Council; Commission on Courts Meetings during 2001 interim.